

107TH CONGRESS
2D SESSION

H. R. 3792

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2002

Mrs. KELLY (for herself and Mrs. TAUSCHER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF FEDERAL**
4 **WATER POLLUTION CONTROL ACT.**

5 (a) IN GENERAL.—This Act may be cited as the
6 “Clean Water Infrastructure and Security Improvement
7 Act of 2002”.

8 (b) AMENDMENT OF FEDERAL WATER POLLUTION
9 CONTROL ACT.—Except as otherwise expressly provided,

1 whenever in this Act an amendment or repeal is expressed
2 in terms of an amendment to, or repeal of, a section or
3 other provision, the reference shall be considered to be
4 made to a section or other provision of the Federal Water
5 Pollution Control Act (33 U.S.C. 1251–1387).

6 **SEC. 2. GENERAL AUTHORITY FOR CAPITALIZATION**
7 **GRANTS.**

8 Section 601(a) (33 U.S.C. 1381(a)) is amended by
9 striking “(1) for construction” and all that follows
10 through the period and inserting “to accomplish the pur-
11 poses of this Act.”.

12 **SEC. 3. CAPITALIZATION GRANTS AGREEMENTS.**

13 (a) REQUIREMENTS FOR CONSTRUCTION OF TREAT-
14 MENT WORKS.—Section 602(b)(6) (33 U.S.C.
15 1382(b)(6)) is amended to read as follows:

16 “(6) treatment works eligible under section
17 603(c)(1) of this Act constructed in whole or in part
18 with funds made available by a State water pollution
19 control revolving fund under this title and section
20 205(m) of this Act will meet the requirements of
21 section 513 of this Act in the same manner as treat-
22 ment works constructed with assistance under title
23 II of this Act;”.

1 (b) ARCHITECTURAL AND ENGINEERING CON-
2 TRACTS.—Section 602(b) (33 U.S.C. 1382(b)) is
3 amended—

4 (1) by striking “and” at the end of paragraph
5 (9);

6 (2) by striking the period at the end of para-
7 graph (10) and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(11) the State will require that each contract
10 and subcontract for program management, construc-
11 tion management, planning studies, feasibility stud-
12 ies, architectural services, preliminary engineering,
13 design, engineering, surveying, mapping, and related
14 services entered into using amounts from the fund
15 will be awarded in the same way that a contract for
16 architectural and engineering services is awarded
17 under title IX of the Federal Property and Adminis-
18 trative Services Act of 1949 (40 U.S.C. 541 et seq.),
19 or an equivalent qualifications-based requirement
20 prescribed by the State, except that such an award
21 shall not be construed as conferring a proprietary in-
22 terest upon the United States.”.

23 (c) GUIDANCE FOR SMALL SYSTEMS.—Section 602
24 (33 U.S.C. 1382) is amended by adding at the end the
25 following:

1 “(c) GUIDANCE FOR SMALL SYSTEMS.—

2 “(1) SIMPLIFIED PROCEDURES.—Not later than
3 1 year after the date of enactment of this sub-
4 section, the Administrator shall assist the States in
5 establishing simplified procedures for small systems
6 to obtain assistance under this title.

7 “(2) PUBLICATION OF MANUAL.—Not later
8 than 1 year after the date of enactment of this sub-
9 section, and after providing notice and opportunity
10 for public comment, the Administrator shall publish
11 a manual to assist small systems in obtaining assist-
12 ance under this title and publish in the Federal Reg-
13 ister notice of the availability of the manual.

14 “(3) SMALL SYSTEM DEFINED.—For purposes
15 of this title, the term ‘small system’ means a system
16 for which a municipality or intermunicipal, inter-
17 state, or State agency seeks assistance under this
18 title and which serves a population of 10,000 or
19 less.”.

20 **SEC. 4. WATER POLLUTION CONTROL REVOLVING FUNDS.**

21 (a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Sec-
22 tion 603(c) (33 U.S.C. 1383(c)) is amended to read as
23 follows:

24 “(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

1 “(1) IN GENERAL.—The amounts of funds
2 available to each State water pollution control re-
3 volving fund shall be used only for providing finan-
4 cial assistance to activities that have as a principal
5 benefit the improvement or protection of water qual-
6 ity of navigable waters to a municipality, intermunic-
7 ipal agency, interstate agency, State agency, or
8 other person. Such activities may include the fol-
9 lowing:

10 “(A) Construction of a publicly owned
11 treatment works.

12 “(B) Implementation of lake protection
13 programs and projects under section 314.

14 “(C) Implementation of a management
15 program under section 319.

16 “(D) Implementation of a conservation and
17 management plan under section 320.

18 “(E) Restoration or protection of publicly
19 or privately owned riparian areas, including ac-
20 quisition of property rights.

21 “(F) Implementation of measures to pro-
22 mote beneficial reuse of wastewater.

23 “(G) Development and implementation of
24 plans by a public recipient to prevent water pol-
25 lution.

1 “(H) Acquisition of lands necessary to
2 meet any mitigation requirements related to
3 construction of a publicly owned treatment
4 works.

5 “(I) Implementation of measures to en-
6 hance the security of publicly owned treatment
7 works.

8 “(2) FUND AMOUNTS.—The water pollution
9 control revolving fund of a State shall be established,
10 maintained, and credited with repayments, and the
11 fund balance shall be available in perpetuity for pro-
12 viding financial assistance described in paragraph
13 (1). Fees charged by a State to recipients of such
14 assistance may be deposited in the fund for the sole
15 purpose of financing the cost of administration of
16 this title.”.

17 (b) LOAN GUARANTEES.—Section 603(d)(5) (33
18 U.S.C. 1383(d)(5)) is amended to read as follows:

19 “(5) to provide loan guarantees for—

20 “(A) similar revolving funds established by
21 municipalities or intermunicipal agencies; and

22 “(B) developing and implementing innova-
23 tive technologies.”.

24 (c) ADMINISTRATIVE EXPENSES.—Section 603(d)(7)
25 (33 U.S.C. 1383(d)(7)) is amended by inserting before the

1 period at the end the following: “or \$400,000 per year
 2 or 1/2 percent per year of the current valuation of such
 3 fund, whichever is greater, plus the amount of any fees
 4 collected by the State for such purpose under subsection
 5 (c)(2)”.

6 (d) TECHNICAL AND PLANNING ASSISTANCE FOR
 7 SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is
 8 amended—

9 (1) by striking “and” at the end of paragraph
 10 (6);

11 (2) by striking the period at the end of para-
 12 graph (7) and inserting a semicolon; and

13 (3) by adding at the end the following:

14 “(8) to provide to small systems technical and
 15 planning assistance and assistance in financial man-
 16 agement, user fee analysis, budgeting, capital im-
 17 provement planning, facility operation and mainte-
 18 nance, repair schedules, and other activities to im-
 19 prove wastewater treatment plant operations, except
 20 that such amounts shall not exceed 2 percent of all
 21 grant awards to such fund under this title; and”.

22 (e) GRANTS TO FINANCIALLY DISTRESSED COMMU-
 23 NITIES.—Section 603(d) (33 U.S.C. 1383(d)) is further
 24 amended by adding at the end the following:

1 “(9) to make grants to financially distressed
2 communities in the State in the amounts specified in
3 subsection (i).”.

4 (f) CONSISTENCY WITH PLANNING REQUIRE-
5 MENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended
6 by striking “is consistent” and inserting “is not incon-
7 sistent”.

8 (g) CONSTRUCTION ASSISTANCE.—Section 603(g)
9 (33 U.S.C. 1383(g)) is amended to read as follows:

10 “(g) CONSTRUCTION ASSISTANCE.—

11 “(1) PRIORITY LIST REQUIREMENT.—The State
12 may provide financial assistance from its water pol-
13 lution control revolving fund with respect to a
14 project for construction of a publicly owned treat-
15 ment works only if such project is on the State’s pri-
16 ority list under section 216 of this Act without re-
17 gard to the rank of such project on the State’s pri-
18 ority list.

19 “(2) ELIGIBILITY OF CERTAIN TREATMENT
20 WORKS.—A treatment works shall be treated as a
21 publicly owned treatment works for purposes of sub-
22 section (c) if the treatment works, without regard to
23 ownership, would be considered a publicly owned
24 treatment works and is principally treating munic-
25 ipal waste water or domestic sewage.”.

1 (h) FINANCIALLY DISTRESSED COMMUNITIES.—Sec-
 2 tion 603 is amended by adding at the end the following:

3 “(i) FINANCIALLY DISTRESSED COMMUNITIES.—

4 “(1) GRANTS.—

5 “(A) IN GENERAL.—In any fiscal year in
 6 which the Administrator has available for obli-
 7 gation more than \$1,400,000,000 for the pur-
 8 poses of this title, a State shall make grants to
 9 financially distressed communities in the State
 10 in an amount equal to 25 percent of the dif-
 11 ference between—

12 “(i) the total amount that would have
 13 been allotted to the State under section
 14 604 for such fiscal year if the amount
 15 available to the Administrator for obliga-
 16 tion under this title for such fiscal year
 17 had been equal to \$1,400,000,000; and

18 “(ii) the total amount allotted to the
 19 State under section 604 for such fiscal
 20 year.

21 “(B) PERIOD OF AVAILABILITY.—Notwith-
 22 standing section 604(c), amounts to be used by
 23 a State under this paragraph for making grants
 24 to financially distressed communities shall re-
 25 main available to the State until expended.

1 “(C) CERTIFICATION.—A State may make
2 a grant to a financially distressed community
3 under this paragraph only if the community
4 certifies to the State that the amounts of the
5 grant will be used to improve water quality.

6 “(2) PRIORITY FOR LOANS.—A State may give
7 priority to a financially distressed community in
8 making loans from its water pollution control revolving
9 fund.

10 “(3) FINANCIALLY DISTRESSED COMMUNITY
11 DEFINED.—In this section, the term ‘financially dis-
12 tressed community’ means any community that
13 meets affordability criteria established by the State
14 in which the treatment works is located, if such cri-
15 teria are developed after public review and comment.

16 “(4) INFORMATION TO ASSIST STATES.—The
17 Administrator may publish information to assist
18 States in establishing affordability criteria under
19 paragraph (3).”.

20 (i) DESIGN-BUILD.—Section 603 is further amended
21 by adding at the end the following:

22 “(j) DESIGN-BUILD.—

23 “(1) IN GENERAL.—To the extent permitted by
24 State law, a recipient of financial assistance from a
25 State’s water pollution control revolving fund may

1 use the design-build project delivery method for any
2 project for the design and construction of a publicly
3 owned treatment works or other infrastructure facil-
4 ity receiving such assistance.

5 “(2) SELECTION PROCEDURES.—In carrying
6 out a project using the design-build project delivery
7 method, a recipient described in paragraph (1) shall
8 use the design-build selection procedures established
9 under section 303M of the Federal Property and
10 Administrative Services Act of 1949 (41 U.S.C.
11 253m).

12 “(3) DESIGN-BUILD DEFINED.—In this sub-
13 section, the term ‘design-build’ means an agreement
14 between a recipient described in paragraph (1) and
15 a contractor that provides for the design and con-
16 struction of a publicly owned treatment works or
17 other infrastructure facility under a single con-
18 tract.”.

19 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 607 (33 U.S.C. 1387) is amended by striking
21 paragraphs (1) through (5) and inserting the following:

22 “(1) \$3,000,000,000 for fiscal year 2003;

23 “(2) \$4,000,000,000 for fiscal year 2004;

24 “(3) \$5,000,000,000 for fiscal year 2005;

25 “(4) \$6,000,000,000 for fiscal year 2006; and

1 “(5) \$7,000,000,000 for fiscal year 2007.”.

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